IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 04.09.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.MANIKUMAR

Habeas Corpus Petition No.635 of 2006

Lakshmi ... Petitioner

vs.

1. The Secretary to Government,
Prohibition & Excise Department,
Fort Saint George, Chennai-600 009.

2. The District Magistrate & District Collector,
Tiruchirapalli District
Tiruchirapalli. ... Respondents

For Petitioner : Mr.T.P.Senthilkumar
For Respondents : Mr.M.Babu Muthu Meeran,
Additional Public Prosecutor.

Petition under Article 226 of the Constitution of India for the issuance of writ of habeas corpus to call for the records relating to the detention order dated 27.02.2006 made in detention order Cr.M.P.No.7 of 2006 passed by the second respondent herein quash the same and direct the respondents to produce the body of the detenu Thiru Deva @ Devarajan S/o Duraisami who has been detained in Central Prison at Trichy, before this Court and set him at liberty.

O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner, who is the niece of the detenu by name Deva @ Devarajan, who is detained as a "Goonda" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 27.02.2006, challenges the same in this petition.

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2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there was inordinate delay in disposal of the representation of the detenu.

The particulars furnished by the learned Additional Public Prosecutor show that the representation was received by the Government on 30.03.2006, remarks were called for on 31.03.2006 and received on 13.04.2006. File was submitted on 17.04.2006 and dealt with by the Under Secretary and Deputy Secretary on the same day i.e. 17.04.2006. Finally, the Minister for Prohibition and Excise passed orders on 18.04.2006. However, the Rejection letter was prepared only on 10.05.2006, sent to the detenu for service on 12.05.2006 and served to him on 16.05.2006.

4. As rightly pointed out by the learned counsel for the petitioner, though the competent authority, viz., Minister for Prohibition and Excise, passed orders on 18.04.2006, there is no reason for taking time till 10.05.2006 for preparation of the rejection letter. In the absence of proper explanation, even if we exclude the intervening holidays, we hold that the delay is on the higher side, which caused prejudice to the detenu in considering his representation effectively. On this ground, the impugned order of detention is quashed.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in connection with some other case or cause.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

gms

To

1. The Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai 600 009.

2. The District Magistrate and District Collector,
Trichy.

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3. The Superintendent,
Central Prison, Trichy.
(In duplicate for communication to detenu)

4. The Joint Secretary to Government,
Public (Law and Order),
Fort St. George, Chennai-9.

5. The Public Prosecutor,
High Court, Madras.

HCP. No.No.635 of 2006

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RVL 14.09.2006

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